



Order Filed on June 5, 2019
by Clerk
U.S. Bankruptcy Court
District of New Jersey

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY

Caption in Compliance with D.N.J. LBR 9004-1(b)

Edward L. Paul, Esquire (EP8529)
Paul & Katz, P.C.
1103 Laurel Oak Road, Suite 105C
Voorhees, New Jersey 08043
(856) 435-6565
Attorneys for Trustee

In Re:

TIMOTHY C. DRASHER

Case No.: 19-15772

Chapter: 7

Hearing Date: June 3, 2019

Judge: Michael B. Kaplan

ORDER AUTHORIZING THE SALE OF REAL PROPERTY FREE
AND CLEAR OF LIENS, CLAIMS, & ENCUMBRANCES, LIENS TO
ATTACH TO THE PROCEEDS OF SALE AND RELATED RELIEF, AND
WAIVER OF AUTOMATIC STAY PROVISION OF F.R.B.P. 6004(h)

The relief set forth on the following pages, numbered two (2) through five (5), is hereby ORDERED.

DATED: June 5, 2019

A handwritten signature of Michael B. Kaplan in black ink, written over a horizontal line.
Honorable Michael B. Kaplan
United States Bankruptcy Judge

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Debtor: Timothy C. Drasher

Case No.: 19-15772

Caption: Order Authorizing the Sale of Real Property Free and Clear of Liens, Claims, & Encumbrances, Liens to Attach to the Proceeds of Sale and Related Relief, and Waiver of Automatic Stay Provision of F.R.B.P. 6004(h)

The court has considered the motion filed by the Chapter 7 Trustee Barry Sharer (the "Trustee"), seeking entry of an Order pursuant to Bankruptcy Code section 363 authorizing the Trustee to sell certain real property owned by the Debtor herein (the "Sale Motion").

IT IS HEREBY FOUND AND DETERMINED THAT:

A. Prior to the filing of the Sale Motion, the Trustee on behalf of the Debtor estate of the Property entered into a Contract of Sale and an Addendum (the "Agreement of Sale") to sell certain real estate commonly known as 24 Warwick Road, Lincol Park, New Jersey 07035 (the "Property") to Jennifer A. Revoredo (the "Purchaser"), free and clear of all liens, claims, and encumbrances, for a purchase price of Four Hundred Fifty Thousand Dollars (\$450,000.00) (the "Sale Price").

B. Proper, timely, and adequate notice of the Sale Motion was provided in accordance with Bankruptcy Code §§ 102(1) and 363, and Fed. R. Bankr. P. 2002, 6004, and 9014. In addition, the Bankruptcy Court Clerk has issued a Notice of Proposed Private Sale to interested parties pursuant to Bankruptcy Rule 2002(a).

C. This Court has jurisdiction to hear and determine the Sale Motion and the issues raised therein under 28 U.S.C. §§ 157 and 1334.

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D. Determination of the issues presented by the Sale Motion is a core proceeding under 28 U.S.C. § 157(b)(2)(A), (N) and (O). The statutory predicates for the relief requested in connection with the Sale are 11 U.S.C. §§ 105(a) and 363(b)(I), (f) and (m).

E. The terms of the proposed sale are fair and reasonable in all respects. The Agreement of Sale was entered into by the parties without collusion, in good faith and at arm's-length bargaining positions. The Purchaser is a good faith purchaser of the Property within the meaning of Bankruptcy Code § 363(m).

F. The Purchaser is not an "insider" of the Debtor, as that term is used in Bankruptcy Code § 101(31) and applicable case law.

G. The procedures utilized by the Trustee to sell the Property afforded a full and fair opportunity for any entity to make a higher or better offer to purchase the Property.

H. The Property may be sold free and clear of liens, claims and encumbrances pursuant to Code § 363(f) with the mortgage of Homebridge Financial Services to be paid from the proceeds of sale once a payoff is received and reviewed with the Debtor.

I. The Sale of the Property as recommended by the Trustee is in the best interest of the Debtor estate and the Trustee has established sufficient business justification for the Sale.

NOW THEREFORE, IT IS ORDERED AND ADJUDGED AS FOLLOWS:

1. The terms of the Agreement of Sale are approved. The Trustee, and

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Purchaser are authorized and directed to close on the sale in accordance with the terms of the Agreement of Sale (the "Closing") and this Order.

2. The transfer of the Property by the Trustee to the Purchaser shall be made free and clear of all liens, claims, and encumbrances pursuant to Bankruptcy Code §§ 363(b) and (f);

3. At the time of closing, the Title Company and the Seller's attorney are permitted to make all normal disbursements, including real estate taxes, closing fees, costs and any other required payments in the ordinary course of a real estate closing where the property is located.

4. The Trustee is authorized to pay the first mortgage lender, Homebridge Financial Services, at closing if the trustee is satisfied with the payoff amount for such secured claim. If the Trustee is not satisfied with the amount due to the Lender, the lien of Homebridge Financial Services will attach to the proceeds of sale which will be remitted to the Trustee until further Order of this Court.

5. After deduction of normal closing costs, payment to Homebridge Financial Service (if any), any outstanding real estate taxes and municipal liens to Borough of Lincoln Park, real estate commissions calculated at 4.375% of the sales price, the remaining net proceeds from closing shall be paid to Barry Sharer, Trustee.

6. The Property shall be conveyed by the Trustee to the Purchaser in an "AS IS", "WHERE IS", "WITH ALL FAULTS" condition, without any express or implied, covenant, guarantee or representation of any kind. Without limiting the generality of the foregoing, neither the Trustee nor any other person or entity makes any representation regarding the Property, and

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the Purchaser shall have no recourse and may not assert any claim against the Trustee, the Debtor, its estate or their representatives based on any such alleged representation.

7. The Realtor is authorized to receive a commission not to exceed 4.375% based upon the sales price, at the time of closing without the need for any further application through this Court.

8. The Trustee, in his capacity as Trustee and not individually, is granted full authority to and is hereby authorized and directed to execute, acknowledge and deliver such certificates, deeds, assignments, conveyances, bills of sale and other assurances, documents, and instruments of transfer and take such other action as may be reasonably necessary to transfer title to the Property.

9. The automatic stay provision set forth in Federal Rule of Bankruptcy Procedure 6004(h) is hereby waived and settlement may proceed upon entry of this Order.

10. The terms and provisions of this Order shall be binding and enforceable in all respects upon, and shall inure to the benefit of, the Trustee, the Debtor's estate, the Debtor's creditors, the Purchaser, and their respective affiliates, successors, heirs, trustees, administrators and assigns, and any affected third parties, including but not limited to any and all entities asserting any claim or interest in the Property or in Debtor's estate.